

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

RECEIVED

SEP 25 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Jurisdictional Separations Reform and)
Referral to the Federal-State Joint Board)CC Docket No. 80-286

**COMMENTS OF
 THE TELEPHONE ASSOCIATION OF NEW ENGLAND**

The Telephone Association of New England ("TANE"), by its attorney, files these comments regarding the *Recommended Decision* of the Federal-State Joint Board on Jurisdictional Separations ("Joint Board").¹ TANE is a regional association of the 45 incumbent local exchange carriers ("ILECs") operating in the six New England states.²

TANE generally supports the recommendation of the Joint Board that the Commission freeze separations factors, with the modifications explained below. The substantial changes in the communications market and technology are rapidly undermining the assumptions upon which the existing usage based factors were adopted. Until the nature and magnitude of these changes can be better understood, and the uncertainty existing pending resolution of the remand of the *Reciprocal Compensation Ruling*³ is resolved, it is important that the Commission act promptly to prevent further distortion of jurisdictional allocations.

¹ Jurisdictional Separations Reform and Referral to the Federal-State Joint Board, CC Docket No. 80-286, *Recommended Decision*, FCC 00J-2, released Jul.21, 2000. See, Public Notice, Comment Sought on Recommended Decision Issued by Federal-State Joint Board on Jurisdictional Separations, DA 00-1865, released Aug. 15, 2000.

² These comments are filed on behalf of the rate-of-return regulated members of TANE.

³ *Declaratory Ruling*, CC Dockets No. 96-98 and *Notice of Proposed Rulemaking*, CC Docket No. 99-68, 14 FCC Rcd 3689 (1999); *Bell Atl. Tel. Companies v. FCC*, 206 F.3d 1 (D.C.Cir. 2000). ("Reciprocal Compensation Ruling")

No. of Copies rec'd 044
 List A B C D E

TANE member ILECs have experienced significantly altered patterns of usage of their networks coincident with the rapid growth of customer use of the Internet. In comments filed last year, TANE noted that the average holding time per call had increased an average of 106% for two TANE members, with the result that substantial increases in trunks were required, even though call volumes were not increasing.⁴ Other studies have indicated that as much as 18% of local/intrastate dial equipment minutes may represent Internet traffic.⁵

These facts, together with the widely recognized growth in Internet usage, most of which is transmitted over local exchange carrier facilities, strongly support the Joint Board's recommendation that the local DEM factor be frozen at some substantial portion of the current level.⁶ Of course if the local proportion is frozen at less than 100% of the current value, the interstate allocation should be increased accordingly.

In the absence of a definitive record, the Joint Board recommended 95% as a default estimate. While TANE believes that the five percent difference would not reflect enough adjustment, it is important that relative separations factors be frozen at once, rather than wait for resolution of an extended debate over a more accurate number.

⁴ TANE Comments, Inter-Carrier Compensation for ISP-Bound Traffic, CC Docket 99-68, Apr. 12, 1999.

⁵ *Letter*, from Richard A. Askoff to Lawrence Strickling, Chief, Common Carrier Bureau, Oct. 5, 1999.

⁶ The growth of the Internet includes growth of Internet Telephony which under the present rules represents a potential direct substitute for services which currently pay access charges. See, IP Telephone Services Market to Reach \$20 Billion by 2005, Price WaterHouse Coopers Telecom Direct, Sep. 20, 2000. www.telecomdirect.pwcglobal.com.

The *Recommended Decision* did not adopt previous proposals for a freeze based on an average of 1995-1997, but instead recommends the use of the most recent twelve months. Although TANE believes the prior year average proposal is superior and still recommends its adoption, the erosion that has taken place over the last several years can be addressed by an appropriate adjustment. Because an adjustment to a 95% level is an obviously conservative adjustment, the Commission should not wait for resolution of the *Reciprocal Compensation Remand* proceeding, and its inevitable further appeals, before adopting the freeze and the Joint Board's proposed adjustment to the frozen factors.

In conjunction with its decision in the *Reciprocal Compensation Remand*, the Commission should also determine a uniform process for identification of Internet traffic in order that studies can be consistently made to determine the actual adjustment.⁷ Studies consistent with a prescribed methodology should be completed promptly and an actual adjustment factor should be calculated consistent with the actual data, and the frozen factors further adjusted accordingly.

Many other plant and expense categories are subject to jurisdictional separations that are allocated using usage (minutes of use) allocators.⁸ To the extent that these relative use measures

⁷ Accurate measurement of Internet usage will require both common definitions. To the extent called numbers are not specifically identified as ISPs, FCC authority to gather the information may be required.

⁸ For example, Tandem Switching Equipment-Category 2, when it cannot be directly assigned, is assigned on relative number of study area minutes of use, 47 C.F.R. 36.124(b); Host-remote message cable and wire facilities-Category 4 are assigned by study area minutes of use kilometers 47 C.F.R. 36.157(a)(1); Host-remote Message Circuit equipment, Category 4.3 is apportioned on the basis of the assignment of host/remote message cable and wire facilities. 47 C.F.R. 36.126(f).


have been affected as has DEM, they should also be frozen with the identical 95% level reduction in local and a five percent increase to interstate.

Although the Joint Board recommended that separations factors be frozen based on a carrier's data from the twelve months prior to adoption of an order, this data will not be readily available due to the lag in completion of cost studies by smaller carriers. Year 2000 data will not be available until well into 2001. TANE therefore recommends that the freeze be implemented January 1, 2001 based on each carrier's most recent cost study reflecting 1999 data. It is important for the Commission to resolve this matter promptly in order that the effects can be reflected in jurisdictional cost studies as soon as possible.

In conclusion, TANE commends the Joint Board for its recognition of the significance of changes in the industry and the need to recognize those changes in the separations process. TANE therefore urges the Commission to adopt its recommendations, with the changes suggested above, as promptly as possible so that it can be in place at the beginning of 2001.

Respectfully submitted,

Telephone Association of New England

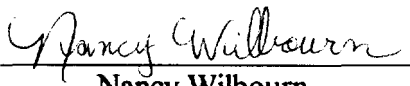
By: 
David Cosson

Kraskin, Lesse & Cosson, LLP
2120 L St. N.W., Suite 520
Washington, D.C. 20036
202-296-8890

September 25, 2000

CERTIFICATE OF SERVICE

I, Nancy Wilbourn, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Comments of the Telephone Association of New England" was served on this 25th day of September 2000, by first class, U.S. mail, postage prepaid to the following parties:


Nancy Wilbourn

Chairman William E. Kennard *
Federal Communications Commission
445 12th Street, SW, Room 8-C302
Washington, DC 20554

Commissioner Susan Ness *
Federal Communications Commission
445 12th Street, SW, Room 8-B115
Washington, DC 20554

Commissioner Michael Powell *
Federal Communications Commission
445 12th Street, SW, Room 8-A204
Washington, DC 20554

Commissioner Harold Furchtgott-Roth *
Federal Communications Commission
445 12th Street, SW, Room 8-A302
Washington, DC 20554

Commissioner Gloria Tristani *
Federal Communications Commission
445 12th Street, SW, Room 8-B201
Washington, DC 20554

Commissioner Joseph P. Mettner
Wisconsin Public Service Commission
P.O. Box 7854
Madison, WI 53707-7854

Commissioner Diane Munns
Iowa Utilities Board
350 Maple Street
Des Moines, IA 50319-0069

Commissioner Joan H. Smith
Oregon Public Utility Commission
550 Capitol Street, NE, Suite 215
Salem, OR 97310-2551

Mr. Thomas L. Welch, Chairman,
State Board Joint Chairman
Maine Public Utilities Commission
State House Station #18
242 State Street
Augusta, ME 04333

Mr. Stephen Burnett *
Common Carrier Bureau,
Accounting Policy Division
Federal Communications Commission
445 12th Street, SW, Room 5-B418
Washington, DC 20554

Mr. William Cox, *
Federal Joint Board Staff Chairman
Common Carrier Bureau,
Accounting Policy Division
Federal Communications Commission
445 12th Street, SW, Room 5-A422
Washington, DC 20554

Mr. Andrew Firth *
Common Carrier Bureau,
Accounting Policy Division
Federal Communications Commission
445 12th Street, SW, Room 5-A422
Washington, DC 20554

Mr. Genaro Fullano *
Common Carrier Bureau,
Accounting Policy Division
Federal Communications Commission
445 12th Street, SW, Room 5-A422
Washington, DC 20554

Mr. Robert Loube *
Common Carrier Bureau,
Accounting Policy Division
Federal Communications Commission
445 12th Street, SW, Room 5-A422
Washington, DC 20554

Mr. Richard Robinson *
Common Carrier Bureau,
Accounting Safeguards Division
Federal Communications Commission
445 12th Street, SW, Room 6-C160
Washington, DC 20552

Mr. Gary Seigel *
Common Carrier Bureau,
Accounting Policy Division
Federal Communications Commission
445 12th Street, SW, Room 5-A422
Washington, DC 20554

Ms. Sheryl Todd *(3 copies)
Common Carrier Bureau,
Accounting Policy Division
Federal Communications Commission
445 12th Street, SW, Room 5-B540
Washington, DC 20554

Ms. Sharon Webber, *
Deputy Division Chief
Common Carrier Bureau,
Accounting Policy Division
Federal Communications Commission
445 12th Street, SW, Room 5-A422
Washington, DC 20554

Mr. Peter Bluhm
Vermont Public Service Board
Drawer 20
112 State Street, 4th Floor
Montpelier, VT 05620-2701

Ingo Henningsen
Utah Public Service Commission
160 East 300 South, Box 146751
Salt Lake City, UT 84114-6751

Ms. Sandy Ibaugh
Indiana Utility Regulatory Commission
302 W. Washington, Suite E-306
Indianapolis, IN 46204

Ms. Lori Kenyon
Regulatory Commission of Alaska
1016 West 6th Avenue, Suite 400
Anchorage, AK 99501-1963

Mr. David Lynch,
State Joint Board Staff Chairman
Iowa Utilities Board
350 Maple Street
Des Moines, IA 50319-0069

Mr. J. Bradford Ramsay
National Assn. Of Reg. Utility Commissioners
P.O. Box 684
Washington, DC 20044-0683

Mr. Jeffrey J. Richter
Wisconsin Public Service Commission
610 North Whitney Way
Madison, Wisconsin 53705-2729

Mr. Joel B. Shifman
Maine Public Utilities Commission
State House Station #18
242 State Street
Augusta, ME 04333

**Mr. Fred Sistarenik
New York State Department
of Public Service
Communications Division
3 Empire State Plaza
Albany, NY 12223**

**Ms. Cynthia Van Landuyt
Oregon Public Utility Commission
550 Capitol Street, NE, Suite 215
Salem, OR 97310-2551**

**International Transcription Service *
1231 20th Street, NW
Washington, DC 20036**

*** Via Hand Delivery**